



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

NORTHWEST TEXAS SURGERY CENTER
1201 LAKE WOODLANDS PKWY #4024
THE WOODLANDS, TX 77380

Respondent Name

Lumbermens Mutual Casualty Co

Carrier's Austin Representative Box

Box Number 21

MFDR Tracking Number

M4-10-3418-01

MFDR Date Received

March 29, 2010

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "THIS WAS PRICES UNDER AETNA FOCUS CONTRACT. NWTSC DOES NOT HAVE A PPO CONTRACT WITH AETNA FOCUS."

Amount in Dispute: \$45,518.00

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: The respondent did not submit a position statement for consideration in this dispute.

Response required by: Gallagher Bassett, 16414 San Pedro #950, San Antonio, TX 78232

SUMMARY OF FINDINGS

Date(s) of Service	Disputed Services	Amount In Dispute	Amount Due
April 10, 2009	Outpatient Hospital Services	\$45,518.00	\$42,172.98

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §134.403, titled *Hospital Facility Fee Guideline – Outpatient*, sets out the reimbursement guidelines for facility services provided in an outpatient acute care hospital.
3. 28 Texas Administrative Code §134.203, titled *Medical Fee Guideline for Professional Services*, sets out the reimbursement guidelines for professional medical services.
4. 28 Texas Administrative Code §133.4 provides for written notification to health care providers of contractual

agreements for informal and voluntary networks.

5. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated June 29, 2009

- 45 – (45) CHARGES EXCEED YOUR CONTRACTED/LEGISLATED FEE ARRANGEMENT
- 96 – (96) NON-COVERED CHARGE(S)
- BL – CV THIS CHARGE WAS REVIEWED THROUGH THE CLINICAL VALIDATION PROGRAM
- 18 – (181) PAYMENT ADJUSTED BECAUSE THIS PROCEDURE CODE WAS INVALID ON THE DATE OF SERVICE

Explanation of benefits dated July 30, 2009

- BL – THIS BILL IS A RECONSIDERATION OF A PREVIOUSLY REVIEWED BILL
- BL- ADDITIONAL ALLOWANCE IS NOT RECOMMENDD AS THIS CLAIM WAS PAID IN ACCORDANCE WITH STATE GUIDELINES. USUAL/CUSTOMARY POLICIES, OR THE PROVIDER'S PPO CONTRACT.
- BL – TO AVOID DUPLICATE BILL DENIAL, FOR ALL RECON/ADJUSTMENTS/ADDITIONAL PYMNT REQUEST, SUBMIT A COPY OF THIS EOR OR CLEAR NOTATION THAT A RECON IS REQUESTED
- 45 – (45) CHARGES EXCEED YOUR CONTRACTED/LEGISLATED FEE ARRANGEMENT
- 96 – (96) NON-COVERED CHARGE(S)
- W1 – WORKERS COMPENSATION STATE FEE SCHEDULE ADJUSTMENT
- 45 – (45) THIS LINE WAS INCLUDED IN THE RECONSIDERATION OF THIS PREVIOUSLY REVIEWED BILL
- 96 – (96) THIS LINE WAS INCLUDED IN THE RECONSIDERATION OF THIS PREVIOUSLY REVIEWED BILL
- 18 – (18) THIS LINE WAS INCLUDED IN THE RECONSIDERATION OF THIS PREVIOUSLY REVIEWED BILL

Explanation of benefits dated September 11, 2009

- BL – THIS BILL IS A RECONSIDERATION OF A PREVIOUSLY REVIEWED BILL
- BL – TO AVOID DUPLICATE BILL DENIAL FOR ALL RECON/ADJUSTMENTS/ADDITIONAL PYMNT REQUEST, SUBMIT A COPY OF THIS EOR OR CLEAR NOTATION THAT A RECON IS REQUESTED
- 18 – (181) PAYMENT ADJUSTED BECAUSE THIS PROCEDURE CODE WAS INVALID ON THE DATE OF SERVICE
- 45 – (45) CHARGES EXCEED YOUR CONTRACTED/LEGISLATED FEE ARRANGMENT.
- 45 – (45) THIS LINE WAS INCLUDED IN THE RECONSIDERATION OF THIS PREVIOUSLY REVIEWED BILL
- 18 – (181) THIS LINE WAS INCLUDED IN THE RECONSIDERATION OF THIS PREVIOUSLY REVIEWED BILL

Explanation of benefits dated October 1, 2009

- BL – THIS BILL IS A RECONSIDERATION OF A PREVIOUSLY REVIEWED BILL
- BL – TO AVOID DUPLICATE BILL DENIAL, FOR ALL RECON/ADJUSTMENTS/ADDITIONAL PYMNT REQUEST, SUBMIT A COPY OF THIS EOR OR CLEAR NOTATION THAT A RECON IS REQUESTED
- 18 – (181) PAYMENT ADJUSTED BECAUSE THIS PROCEDURE CODE WAS INVALID ON THE DATE OF SERVICE
- 96 – (96) NON-COVERED CHARGES
- 45 – (45) CHARGES EXCEED YOUR CONTRACTED/LEGISLATED FEE ARRANGEMENT
- W1 – (W1) THIS LINE WAS INCLUDED IN THE RECONSIDERATION OF THIS PREVIOUSLY REVIEWED BILL
- 45 – (45) THIS LINE WAS INCLUDED IN THE RECONSIDERATION OF THIS PREVIOUSLY REVIEWED BILL
- 96 – (96) THIS LINE WAS INCLUDED IN THE RECONSIDERATION OF THIS PREVIOUSLY REVIEWED BILL
- 18 – (18) THIS LINE WAS INCLUDED IN THE RECONSIDERATION OF THIS PREVIOUSLY REVIEWED BILL

Explanation of benefits dated November 24, 2009

- BL – THIS BILL IS A RECONSIDERATION OF A PREVIOUSLY REVIEWED BILL
- BL – TO AVOID DUPLICATE BILL DENIAL, FOR ALL RECON/ADJUSTMENTS/ADDITIONAL PYMNT

REQUEST, SUBMIT A COPY OF THIS EOR OR CLEAR NOTATION THAT A RECON IS REQUESTED

- 16 – (16) CLAIM.SERVUCE LACKS INFORMATMION WHICH IS NEEDED FOR ADJUDICATION. ADDITIONAL INFORMATION IS SUPPLIES USING REMITTANCE ADVICE REMARKS CODES WHENEVER APPROPRIATE
- W1 – WORKERS COMPENSATIO NSTATE FEE SCHEDULE ADJUSTMENT
- 45 – (45)CHARGES EXCEED YOUR CONTRACTED/LEGISLATED FEE ARRANGEMENT
- 96 – (96) NON-COVERED SERVICES
- W1 – (W1) THIS LINE WAS INCLUDED IN THE RECONSIDERATION OF THIS PREVIOUSLY REVIEWED BILL
- 45 – (45) THIS LINE WAS INCLUDED IN THE RECONSIDERATION OF THIS PREVIOUSLY REVIEWED BILL
- 96 – (96) THIS LINE WAS INCLUDED IN THE RECONSIDERTAION OF THIS PREVIOUSLY REVIEWED BILL
- 16 – (16) THIS LINE WAS INCLUDED IN THE RECONSIDERATION OF THIS PREVIOUSLY REVIEWED BILL

Explanation of benefits dated March 1, 2010

- BL – THIS BILL IS A RECONSIDERATIONOF A PREVIOUSLY REVIEWED BILL
- BL – ADDITIONAL ALLOWANCE IS NOT RECOMMENDED AS THIS CLAIM WAS PAID IN ACCORDANCE WITH STATE GUIDELINES.USUAL/CUSTOMARY PLICIES, OR THI
- BL – TO AVOID DUPLICATE BILL DENIAL, FOR ALL RECON/ADJUSTMENTS/ADDITIONAL PYMNT REQUEST, SUBMIT A COPY OF THIS EOR OR CLEAR NOTATION THAT A RECON IS REQUESTED
- 16 – (16) CLAIM/SERVICE LACKS INFORMATMION WHICH IS NEEDED FOR ADJUDICATION. ADDITIONAL INFORMATION IS SUPPLIES USING REMITTANCE ADVICE REMARKS CODES WHENEVER APPROPRIATE
- 45 – (45) CHARGES EXCEED YORU CONTRACTED/LEGISLATED FEE ARRANGEMENT
- 96 – (96) NON-COVERED CHARGE(S).
- 45 – (45)THIS LINE WAS INCLUDED IN THE RECONSIDERATION OF THIS PREVIOUSLY REVIEWED BILL
- 96 – (96) THIS LINE WAS INCLUDED IN THE RECONSIDERATION OF THIS PREVIOUSLY REVIEWED BILL
- 16 – (16) THIS LINE WAS INCLUDED IN THE RECONSIDERATION OF THIS PREVIOUSLY REVIEWED BILL

Issues

1. Are the disputed services subject to a contractual agreement between the parties to this dispute?
2. What is the applicable rule for determining reimbursement for the disputed services?
3. What is the recommended payment amount for the services in dispute?
4. Is the requestor entitled to reimbursement?

Findings

1. The insurance carrier reduced or denied disputed services with reason code 45 – “CHARGES EXCEED YOUR CONTRACTED/LEGISLATED FEE ARRANGEMENT.” Review of the submitted information found insufficient documentation to support that the disputed services were subject to a contractual fee arrangement between the parties to this dispute. Nevertheless, on September 22, 2010, the Division requested the respondent to provide a copy of the referenced contract as well as documentation to support notification to the healthcare provider, as required by 28 Texas Administrative Code §133.4, that the insurance carrier had been given access to the contracted fee arrangement. Review of the submitted information finds that the documentation does not support notification to the healthcare provider in the time and manner required. The Division concludes that, pursuant to §133.4(g), the insurance carrier is not entitled to pay the health care provider at a contracted fee. Consequently, per §133.4(h), the disputed services will be reviewed for payment in accordance with applicable Division rules and fee guidelines.
2. This dispute relates to facility services performed in an outpatient hospital setting with reimbursement subject to the provisions of 28 Texas Administrative Code §134.403, which requires that the reimbursement calculation used for establishing the maximum allowable reimbursement (MAR) shall be the Medicare facility specific amount, including outlier payment amounts, determined by applying the most recently adopted and effective Medicare Outpatient Prospective Payment System (OPPS) reimbursement formula and factors as published annually in the Federal Register with the application of minimal modifications as set forth in the rule. Per §134.403(f)(1), the sum of the Medicare facility specific reimbursement amount and any applicable outlier

payment amount shall be multiplied by 200 percent, unless a facility or surgical implant provider requests separate reimbursement of implantables. Review of the submitted documentation finds that separate reimbursement for implantables was not requested.

3. Under the Medicare Outpatient Prospective Payment System (OPPS), each billed service is assigned an Ambulatory Payment Classification (APC) based on the procedure code used, the supporting documentation and the other services that appear on the bill. A payment rate is established for each APC. Depending on the services provided, hospitals may be paid for more than one APC per encounter. Payment for ancillary and supportive items and services, including services that are billed without procedure codes, is packaged into payment for the primary service. A full list of APCs is published quarterly in the OPPS final rules which are publicly available through the Centers for Medicare and Medicaid Services (CMS) website. Reimbursement for the disputed services is calculated as follows:

- Procedure code 63685, date of service April 10, 2009, has a status indicator of S, which denotes a significant procedure, not subject to multiple-procedure discounting, paid under OPPS with separate APC payment. These services are classified under APC 0222, which, per OPPS Addendum A, has a payment rate of \$15,566.65. This amount multiplied by 60% yields an unadjusted labor-related amount of \$9,339.99. This amount multiplied by the annual wage index for this facility of 0.8965 yields an adjusted labor-related amount of \$8,373.30. The non-labor related portion is 40% of the APC rate or \$6,226.66. The sum of the labor and non-labor related amounts is \$14,599.96. Per 42 Code of Federal Regulations §419.43(d) and Medicare Claims Processing Manual, CMS Publication 100-04, Chapter 4, §10.7.1, if the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of \$1,800, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.3007. This ratio multiplied by the billed charge of \$2,500.00 yields a cost of \$751.75. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for these services of \$14,599.96 divided by the sum of all APC payments is 64.92%. The sum of all packaged costs is \$11,018.25. The allocated portion of packaged costs is \$7,152.65. This amount added to the service cost yields a total cost of \$7,904.40. The cost of these services exceeds the annual fixed-dollar threshold of \$1,800. The amount by which the cost exceeds 1.75 times the OPPS payment is \$0.00. The total APC payment for this line is \$14,599.96. This amount multiplied by 200% yields a MAR of \$29,199.92.
- Procedure code 63650, date of service April 10, 2009, has a status indicator of S, which denotes a significant procedure, not subject to multiple-procedure discounting, paid under OPPS with separate APC payment. These services are classified under APC 0040, which, per OPPS Addendum A, has a payment rate of \$4,206.45. This amount multiplied by 60% yields an unadjusted labor-related amount of \$2,523.87. This amount multiplied by the annual wage index for this facility of 0.8965 yields an adjusted labor-related amount of \$2,262.65. The non-labor related portion is 40% of the APC rate or \$1,682.58. The sum of the labor and non-labor related amounts is \$3,945.23. Per 42 Code of Federal Regulations §419.43(d) and Medicare Claims Processing Manual, CMS Publication 100-04, Chapter 4, §10.7.1, if the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of \$1,800, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.3007. This ratio multiplied by the billed charge of \$818.18 yields a cost of \$246.03. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for these services of \$3,945.23 divided by the sum of all APC payments is 17.54%. The sum of all packaged costs is \$11,018.25. The allocated portion of packaged costs is \$1,932.80. This amount added to the service cost yields a total cost of \$2,178.83. The cost of these services exceeds the annual fixed-dollar threshold of \$1,800. The amount by which the cost exceeds 1.75 times the OPPS payment is \$0.00. The total APC payment for this line is \$3,945.23. This amount multiplied by 200% yields a MAR of \$7,890.46.
- Procedure code 63650, date of service April 10, 2009, has a status indicator of S, which denotes a significant procedure, not subject to multiple-procedure discounting, paid under OPPS with separate APC payment. These services are classified under APC 0040, which, per OPPS Addendum A, has a payment rate of \$4,206.45. This amount multiplied by 60% yields an unadjusted labor-related amount of \$2,523.87. This amount multiplied by the annual wage index for this facility of 0.8965 yields an adjusted labor-related amount of \$2,262.65. The non-labor related portion is 40% of the APC rate or \$1,682.58. The sum of the labor and non-labor related amounts is \$3,945.23. Per 42 Code of Federal Regulations §419.43(d) and Medicare Claims Processing Manual, CMS Publication 100-04, Chapter 4, §10.7.1, if the total cost for a service exceeds 1.75 times the OPPS payment and also exceeds the annual fixed-dollar threshold of \$1,800, the outlier payment is 50% of the amount by which the cost exceeds 1.75 times the OPPS payment. Per the OPPS Facility-Specific Impacts file, CMS lists the cost-to-charge ratio for this provider as 0.3007.

This ratio multiplied by the billed charge of \$818.18 yields a cost of \$246.03. The total cost of all packaged items is allocated proportionately across all separately paid OPPS services based on the percentage of the total APC payment. The APC payment for these services of \$3,945.23 divided by the sum of all APC payments is 17.54%. The sum of all packaged costs is \$11,018.25. The allocated portion of packaged costs is \$1,932.80. This amount added to the service cost yields a total cost of \$2,178.83. The cost of these services exceeds the annual fixed-dollar threshold of \$1,800. The amount by which the cost exceeds 1.75 times the OPPS payment is \$0.00. The total APC payment for this line is \$3,945.23. This amount multiplied by 200% yields a MAR of \$7,890.46.

- Procedure code L8687, date of service April 10, 2009, has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
 - Procedure code C1778, date of service April 10, 2009, has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
 - Procedure code C1778, date of service April 10, 2009, has a status indicator of N, which denotes packaged items and services with no separate APC payment; payment is packaged into the reimbursement for other services, including outliers.
4. The total allowable reimbursement for the services in dispute is \$44,980.84. This amount less the amount previously paid by the insurance carrier of \$2,807.86 leaves an amount due to the requestor of \$42,172.98. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$42,172.98.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$42,172.98, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this order.

Authorized Signature

_____ Signature	_____ Medical Fee Dispute Resolution Officer	_____ March 8, 2013 Date
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_____ Signature	_____ Medical Fee Dispute Resolution Manager	_____ March 8, 2013 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party**.

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.